

ORDINANCE NO. 5-2021

FIRST READING 4/20/2021  
SECOND READING 5/18/2021

AN ORDINANCE GOVERNING THE OPERATION OF MOBILE FOOD UNIT VENDORS  
IN THE CITY OF MOUNT STERLING, KENTUCKY

WHEREAS, the existing city ordinances do not provide any regulations governing the operation of mobile food unit vendors; and

WHEREAS, the City Council desires to supplement the Mt. Sterling Code of Ordinances by establishing regulations for those vendors while also providing for the public safety, health, and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MOUNT STERLING, KENTUCKY AS FOLLOWS:

SECTION 1 – DEFINITION AND APPLICABLE LAWS AND REGULATIONS

- (A) The term “mobile food unit vendor” (hereinafter, “Vendor”) as used in this ordinance shall be defined to mean a merchant who conducts business from an establishment which is on wheels or is otherwise mobile but not including, however, vendors such as ice cream trucks who are primarily mobile and who only stop at undetermined locations and for very brief periods of time to service customers. A “Vendor” operating in the City shall be subject to the provisions of this ordinance as well as to all applicable ordinances and regulations currently in effect or enacted or adopted in the future unless otherwise expressly provided herein. These include, but are not necessarily limited to zoning, public safety, pedestrian and state traffic laws, restricted sales or vending areas, parking, and licensing.
- (B) “Owner”– The holder of the title in fee simple and any person, group of persons, company, association, or corporation in whose name tax bills on the property are submitted. OWNER also means a person, association, corporation, partnership, or other legal entity having legal or equitable title in real property. It shall also mean any person who, alone or jointly or severally with others: 1) shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or 2) shall have charge, care, or control of any dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possession, assignee of rents, lessee, or other person, firm, or corporation in control of a building, or their duly authorized agents. Any such person representing the actual owner shall be bound to comply shall be bound to comply with the provisions of this ordinance, and the rules and regulations adopted.

- (C) “Premises” – A lot, plot, or parcel of land including the buildings, dwellings, or structures thereon.

## SECTION 2- GENERAL INFORMATION

- (A) The City of Mt. Sterling seeks to provide VENDORS guidance and instruction for obtaining a Business License to operate within the city limits. The VENDOR must submit the following information to the City Clerk to obtain a Business License:
  - a. Authorization and consent for a VENDOR to operate on private property must be obtained in writing from the OWNER or authorized agent.
  - b. Authorization and/or permit issued by the Montgomery County Health Department.
  - c. Authorization and/or permit issued by a state or local fire marshal.
  - d. Proof of general liability insurance.
- (B) The City Clerk will maintain applications for the license at City Hall and on the city website. A Business License will be issued to a VENDOR at a cost of \$100 per calendar year. The Business License must be displayed by the VENDOR in a location which is easily viewed by the public.
- (C) VENDORS are required to collect a “Restaurant Tax”. The City Clerk will provide VENDORS all necessary forms for reporting and submission of the tax when the Business License is issued.
- (D) The following information is provided to VENDORS for consideration when setting up business operations:
  - a. VENDORS may not operate within 150 feet of the primary entrance of any business establishment entrance which submits a “Restaurant Tax” to the City.
  - b. The location of the VENDOR must allow for proper vehicular and pedestrian access and circulation on the property.
  - c. VENDORS may not set up or operate for more than seven (7) days consecutively at any location.
  - d. An authorized receptacle must be provided for patrons to dispose of trash or garbage. The receptacle must be emptied daily.
  - e. Water, waste, or refuse may not be dumped down storm drains.
- (E) This ordinance does not apply to VENDORS who only wish to operate during city festivals or other short term community events in which another permit is issued.

## SECTION 3 - VIOLATIONS - PENALTIES FOR VIOLATION

(A) It is unlawful for a VENDOR to operate without a Business License. Failure to obtain a Business License will result in the closure of the VENDOR by an authorized City agent.

(B) Penalties/fines for violations of this ordinance are as follows:

- 1) 1<sup>st</sup> offense within 1-year period – Notice of violation and request to correct violation.
- 2) 2<sup>nd</sup> offense within 1-year period \* \$250.00

#### SECTION 4- SEVERABILITY

Each word, phrase, sentence, section, and provision (each “portion”) of this Ordinance is hereby declared to be independent and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any portion of said Ordinance, the adoption thereof, or the application thereof to any person or circumstance is held to be invalid, the remaining portions and the application of such portions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is declared that such portions would have been passed independently of such portion or portions so held to be invalid.

#### SECTION 5-CONFLICTING CODE PROVISIONS REPEALED

Any provision(s) in the City of Mt. Sterling Code of Ordinances specifically in conflict with any provision in this Ordinance is hereby deemed inoperative and repealed.

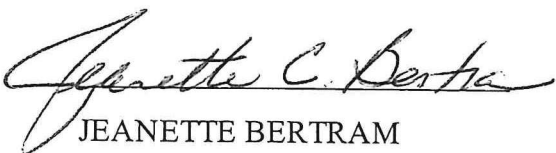
#### SECTION 6-PUBLICATION

This Ordinance shall become effective upon passage and publication. Publication is authorized to be made in summary form as authorized in KRS 83.060 (9).



AL BOTTS, MAYOR

ATTEST:



JEANETTE BERTRAM

CITY CLERK